

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MANUEL ACOSTA, on Behalf of Himself
and All Other Similarly Situated Individuals;
LUIS MONTOYA, on Behalf of Himself and
All Other Similarly Situated Individuals; and
MARTIN HINOJOSA, on Behalf of Himself
and All Other Similarly Situated Individuals;

Plaintiffs,

vs.

TYSON FOODS, INC.,

Defendant.

8:08CV86

ORDER

This matter is before the court on the defendant's objection, Filing No. [183](#), to the magistrate judge's order, Filing No. [168](#), denying the defendant's motion to preserve the right to jury trial, Filing No. [132](#). The defendant has also filed a motion for an immediate ruling on its objections, Filing No. [187](#), which is rendered moot by this order.

The court has reviewed the defendant's submissions and finds the magistrate judge's order should be upheld. The court agrees with the magistrate judge that the parties waived their right to a jury trial, the issues are not "best tried to a jury," and the degree of prejudice to the plaintiffs at this stage of the case does not justify trial by jury. Accordingly,

IT IS ORDERED:

1. The defendant's objection (Filing No. [183](#)) to the magistrate judge's order (Filing No. [168](#)) is overruled.
2. The defendant's motion for an immediate ruling (Filing No. [187](#)) is denied as moot.

Dated this 29th day of November, 2012.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge